

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEFFREY ALLEN COOK,

Plaintiff,

v.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS,
MARK WENTWORTH, LEIGH
GILLIVER, ERIN LYSTADT, RYAN
HARRINGTON, JENNIFER MEYERS,
JOAN PALMER, DEAN MASON,
JASON BENNETT, and ROBERT
JACKSON,

Defendant.

CASE NO. 3:23-cv-5773

ORDER ADOPTING R&R DENYING
MOTION FOR SUMMARY
JUDGMENT

This matter comes before the Court on United States Magistrate Judge Michelle L. Peterson's Report and Recommendation ("R&R"), Dkt. No. 35, on Defendants' motion for summary judgment for failure to exhaust administrative remedies, Dkt. No. 26. Judge Peterson recommends denying the motion because issues of material fact exist as to whether Cook effectively exhausted his administrative remedies under Ninth Circuit precedent *Harvey v. Jordan*, 605 F.3d 681, 684–85 (9th Cir. 2010). Dkt. No. 35 at 7.

1 No one has objected to the R&R and the time for objecting has passed. *See*
2 *generally* Dkt. Because there were no objections, the Court may adopt the R&R if it
3 is satisfied there are no clear errors on the face of the record. Fed. R. Civ. P.
4 72(b) Advisory Committee's Note to 1983 Amendment. The Court agrees with Judge
5 Peterson's reasoning and finds no clear errors on the face of the record.

6 Accordingly, the Court ORDERS:

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- The Court ADOPTS the Report and Recommendation, Dkt. No. 35.
 - Defendants' motion for summary judgment for failure to exhaust
8 administrative remedies, Dkt. No. 26, is DENIED.
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10 The Clerk is directed to send uncertified copies of this Order to counsel and to
11 Judge Michelle L. Peterson.

12 Dated this 13th day of September, 2024.

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14 Jamal N. Whitehead
15 United States District Judge
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